

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**ALDERAY Q. SIMMONDS,
Inmate No. 1234041**

Plaintiff,

v.

1:13-cv-170-WSD

UNKNOWN DEFENDANT,

Defendant.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Justin S. Anand's Final Report and Recommendation [7] ("R&R") recommending that this action be dismissed.

I. BACKGROUND

On January 11, 2013, Plaintiff Alderay Q. Simmonds ("Plaintiff"), then an inmate at the Fulton County Jail, proceeding *pro se*, filed this action alleging civil rights abuses. On January 29, 2013, Magistrate Judge Anand ordered Plaintiff, within thirty (30) days, to either pay the Court's standard \$350 filing fee or submit an *in forma pauperis* ("IFP") application. The January 30th Order was mailed to the Plaintiff's address of record, but was returned marked as "Not Deliverable As

addressed.” (R&R at 1). On February 27, 2013, Magistrate Judge Anand entered another order to deliver the January 30th Order and the proper filing forms to Plaintiff, but the Court’s Order was also returned marked “RTS” and “IA” on March 18, 2013.¹

On July 10, 2013, Magistrate Judge Anand entered another order to deliver the documents to Plaintiff through the care of Major Reuben Wingfield, the Fulton County Jail Operations Manager. Although Major Wingfield did not comply with the Order’s instruction to notify the court that he delivered the documents to Plaintiff, none of the documents were returned to the court and Plaintiff therefore presumably received them. On August 29, 2013, Plaintiff was released from the Fulton County Jail. See Fulton County Inmate Search, available at <http://justice.fultoncountyga.gov/PAJailManager/JailingDetail.aspx?JailingID=343> (last visited November 6, 2013). Plaintiff has not provided the Court with his new address.

On October 22, 2013, the Magistrate Judge issued the R&R now before the Court. In it, the Magistrate Judge recommended that Plaintiff’s Complaint be dismissed without prejudice pursuant to Local Rule 41.2(C) because Plaintiff failed

¹ These notations presumably stand for “Return to Sender” and “Incorrect Address.”

to notify the Court of his current address, and as a result, the Court is unaware of “Plaintiff’s whereabouts.” (R&R at 4). No objection has been filed.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1) (Supp. V 2011); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982) (per curiam). A district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). If no party has objected to the report and recommendation, a court conducts only a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983) (per curiam).

B. Analysis

As the Magistrate Judge noted in his October 22, 2013 R&R, the Court currently does not have any information about Plaintiff’s address and does not have other contact information for him. Plaintiff’s failure to provide the Court with accurate contact information has delayed and adversely affected the

management of this case, including because these proceedings cannot continue without being able to communicate with Plaintiff.

Local Rule 41.2(C) provides that

[t]he failure . . . of a party appearing *pro se* to keep the clerk's office informed of any change in address and/or telephone number which causes a delay or otherwise adversely affects the management of the case shall constitute grounds . . . for dismissal of the action without prejudice.


The Court does not find plain error in the Magistrate Judge's findings and recommendations in his R&R that this action be dismissed without prejudice.

III. CONCLUSION

Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Justin S. Anand's Final Report and Recommendation [7] is **ADOPTED**, and this action is **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 41.2(C).

SO ORDERED this 8th day of November, 2013.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE